

AMENDED IN SENATE AUGUST 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1397**

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**Introduced by Committee on Veterans Affairs (Muratsuchi (Chair),  
Chávez (Vice Chair), Atkins, Brown, Eggman, Grove, Salas, and  
Yamada)**

March 6, 2013

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An act to ~~amend Section 172 of the Military and Veterans Code, relating to the state militia:~~ *military employment protections.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Committee on Veterans Affairs. ~~State militia: Adjutant General: report to the Governor. California National Guard and United States Military Reserve: employment protections.~~

*Existing federal law prohibits a person who is a member of, applies to be a member of, or who performs, has performed, applies to perform, or has an obligation to perform service in, a uniformed service, from being subject to adverse employment actions on the basis of that membership, application for membership, performance of service, application for service, or obligation. Existing federal law entitles any person whose absence from a position of employment is necessitated by reason of service in the uniformed services to reemployment rights and other benefits if certain requirements are met.*

*Existing law prohibits, among other things, an employer from discharging any person from employment because of the performance of any ordered military duty or training or by reason of being an officer or warrant officer, or enlisted member of the military or naval forces of this state, or prejudicing or harming him or her in any manner in his or her employment, position, or status by reason of performance of*

*military service or duty or attendance at military encampments or places of drill or instruction.*

*Existing law entitles a member of the reserve corps of the Armed Forces of the United States or of the National Guard or the Naval Militia to a temporary military leave of absence while engaged in military duty, and prohibits employers from restricting or terminating any collateral benefit for employees because of an employee's temporary incapacitation incident to duty in the National Guard or Naval Militia.*

*This bill would declare the intent of the Legislature to enact legislation to enhance, clarify, and strengthen the employment protections afforded to members of the California National Guard or the United States Military Reserve in California.*

~~Existing law requires the Adjutant General to make a report to the Governor every 4th year containing specified information regarding the operation of the Military Department.~~

~~This bill would instead require the report to be made on or before July 1, 2014, and on or before July 1 each year thereafter, to the Governor and the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) (1) The jobs of the nation's citizen soldiers in the California*
- 4     *National Guard or the United States Military Reserve are supposed*
- 5     *to be safe while they are serving their country. Neither federal nor*
- 6     *state law authorizes employers to penalize service members for*
- 7     *attending to their military duties.*
- 8     *(2) In spite of existing legal protections, every year, thousands*
- 9     *of California National Guard or United States Military Reserve*
- 10    *troops returning from Afghanistan and elsewhere come home only*
- 11    *to find they have been replaced, demoted, denied benefits, or denied*
- 12    *seniority.*
- 13    *(3) These adverse employment actions have contributed to*
- 14    *historically high rates of joblessness among returning California*
- 15    *National Guard or United States Military Reserve members.*
- 16    *(4) Many of those considering military service in the California*
- 17    *National Guard or the United States Military Reserve will be*

1 *deterred from entering the military absent a guarantee that their*  
2 *civilian jobs will be safe on their return from active service.*

3 *(b) In light of the fact that members of the California National*  
4 *Guard or the United States Military Reserve in California continue*  
5 *to experience both overt and subtle forms of discrimination in*  
6 *employment, it is the intent of the Legislature to enact legislation*  
7 *to enhance, clarify, and strengthen the employment protections*  
8 *afforded to them in California.*

9 ~~SECTION 1. Section 172 of the Military and Veterans Code~~  
10 ~~is amended to read:~~

11 ~~172. (a) On or before July 1, 2014, and on or before July 1~~  
12 ~~each year thereafter, the Adjutant General shall make report to the~~  
13 ~~Governor and the Legislature. The report shall include a statement~~  
14 ~~of the moneys received and disbursed by the Adjutant General for~~  
15 ~~military purposes, the number and condition of the active militia,~~  
16 ~~and a history of the activities and developments of the Military~~  
17 ~~Department during the preceding year.~~

18 ~~(b) The report required pursuant to subdivision (a) shall be~~  
19 ~~submitted in compliance with Section 9795 of the Government~~  
20 ~~Code.~~

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